

SENATE RECORD VOTE ANALYSIS

105th Congress
2nd Session

Vote No. 151

June 9, 1998, 6:14 p.m.
Page S-5775 Temp. Record

TOBACCO BILL/Comprehensive Anti-Drug Program

SUBJECT: National Tobacco Policy and Youth Smoking Reduction Act . . . S. 1415. Lott (for Coverdell/Craig amendment No. 2451 to the Daschle (for Durbin) amendment No. 2437, as amended, to the instructions (Gramm amendment No. 2436) to the Gramm motion to recommit the Commerce Committee modified substitute amendment No. 2420.

ACTION: AMENDMENT AGREED TO, 52-46

SYNOPSIS: The "Commerce-2" committee substitute amendment (see NOTE in vote No. 142) to S. 1415, the National Tobacco Policy and Youth Smoking Reduction Act, will raise up to \$265.0 billion over 10 years and up to \$885.6 billion over 25 years from tobacco company "payments" (assessments) and from "look-back" penalties that will be imposed on tobacco companies if they fail to reduce underage use of tobacco products. Most of the money will come from the required payments (\$755.67 billion over 25 years). Additional sums will be raised from other fines and penalties on tobacco companies, and the required payments will be higher if volume reduction targets on tobacco use are not met. The tobacco companies will be required to pass on the entire cost of the payments to their consumers, who are primarily low-income Americans. By Joint Tax Committee (JTC) estimates, the price of a pack of cigarettes that costs \$1.98 now will rise to \$4.84 by 2007. The amendment will require the "net" amount raised, as estimated by the Treasury Department, to be placed in a new tobacco trust fund. (The net amount will be equal to the total amount collected minus any reductions in other Federal revenue collections that will occur as a result of increasing tobacco prices. For instance, income tax collections will decline because there will be less taxable income in the economy). The JTC estimates that the amendment will raise up to \$232.4 billion over 9 years, but only \$131.8 billion net. Extending the JTC's assumptions through 25 years, a total of \$514.2 billion net will be collected. The amendment will require all of that money to be spent; 56 percent of it will be direct (mandatory) spending. The Federal Government will give States 40 percent of the funds and will spend 60 percent. Medicare will not get any of the funding in the first 10 years unless actual revenues are higher than estimated in this amendment (in contrast, the Senate-passed budget resolution required any Federal share of funds from tobacco legislation

(See other side)

YEAS (52)			NAYS (46)			NOT VOTING (2)	
Republicans (52 or 96%)	Democrats (0 or 0%)		Republicans (2 or 4%)	Democrats (44 or 100%)		Republicans (1)	Democrats (1)
Abraham	Helms		Chafee	Akaka	Johnson	Specter- ³	Inouye- ²
Allard	Hutchinson		Jeffords	Baucus	Kennedy		
Ashcroft	Hutchison			Biden	Kerrey		
Bennett	Inhofe			Bingaman	Kerry		
Bond	Kempthorne			Boxer	Kohl		
Brownback	Kyl			Breaux	Landrieu		
Burns	Lott			Bryan	Lautenberg		
Campbell	Lugar			Bumpers	Leahy		
Coats	Mack			Byrd	Levin		
Cochran	McCain			Cleland	Lieberman		
Collins	McConnell			Conrad	Mikulski		
Coverdell	Murkowski			Daschle	Moseley-Braun		
Craig	Nickles			Dodd	Moynihan		
D'Amato	Roberts			Dorgan	Murray		
DeWine	Roth			Durbin	Reed		
Domenici	Santorum			Feingold	Reid		
Enzi	Sessions			Feinstein	Robb		
Faircloth	Shelby			Ford	Rockefeller		
Frist	Smith, Bob			Glenn	Sarbanes		
Gorton	Smith, Gordon			Graham	Torricelli		
Gramm	Snowe			Harkin	Wellstone		
Grams	Stevens			Hollings	Wyden		
Grassley	Thomas						
Gregg	Thompson						
Hagel	Thurmond						
Hatch	Warner						

EXPLANATION OF ABSENCE:

- 1—Official Business
- 2—Necessarily Absent
- 3—Illness
- 4—Other

SYMBOLS:

- AY—Announced Yea
- AN—Announced Nay
- PY—Paired Yea
- PN—Paired Nay

to be used to strengthen Medicare; see vote No. 84).

The Gramm motion to recommit with instructions would direct the Commerce Committee to report the bill back with the inclusion of the amendments already agreed to and the Gramm amendment No. 2437. The Gramm amendment would adopt the Gregg/Leahy amendment (see NOTE below) and would eliminate the marriage penalty in the tax code on couples earning less than \$50,000 per year. (Under current law, all married people are taxed at a higher rate than they would be if they were single and their income were divided between them). The Gramm amendment would increase the deduction for married couples earning less than \$50,000 so as to eliminate the penalty, and would amend the Earned Income Credit (EIC) to ensure that increasing the deduction would not decrease eligibility for the EIC. The tax relief for low income families that would be provided by this amendment in the first 5 years would be approximately equal to one-third of the revenues raised by the bill.

The Durbin amendment, as amended, would cap the look-back penalties at \$7.7 billion annually and would shift the burden of those penalties on to those companies that have brands that do not meet the youth smoking reduction targets (see vote No. 149 for details).

The Coverdell/Craig amendment to the Durbin amendment, as amended, would add the Drug-Free Neighborhoods Act, which would enact the following:

- for each of fiscal years (FYs) 1999-2003 for drug interdiction activities, the Customs Service would receive an additional \$500,000, the Coast Guard would receive an additional \$400,000, and the Defense Department would receive \$470,000;
- acts of violence committed while eluding inspection or otherwise committed while entering the United States would be Federal felony offenses;
- operators of vessels who failed to obey a Federal law enforcement officer's order to heave to, who obstructed boarding, or who gave false information regarding the vessel or the vessel's crew, cargo, or destination, could be fined or imprisoned for up to 5 years and the vessel could be seized; similar penalties would apply to aircraft pilots entering the United States;
- a civil penalty of up to \$25,000 would apply, and a vessel could be forfeited, for failing to comply with a boarding by a law enforcement officer;
- for each of FYs 1999-2003 the number of Border Patrol Agents would be increased by not less than 1,500 full-time agents, and by 2003 there would be at least 15,000 more agents than there are at present;
- a Border Patrol Agent would not be allowed to stop a pursuit of a suspect without apprehending that suspect unless State or local law enforcement authorities had joined the pursuit and had the suspect in visual range;
- drug interdiction would be made a function of the Border Patrol, which would be as high a priority as stopping illegal entry;
- authority to rotate duty stations for Customs Service employees would be increased;
- procedures would be established to eliminate any elements of collective bargaining agreements that were found to have an adverse impact upon the interdiction of contraband, including controlled substances;
- a demonstration program would be established to provide voluntary drug testing for teens and other first-time applicants for driver's licenses;
- \$10 million in grants for each of FYs 1999-2003 would be given to States that had programs: that made it illegal to drive with any measurable amount of an illegal drug in the driver's body; that allowed the suspension of a driver's license if the driver's abilities were impaired by an illegal drug; and that allowed the suspension of a driver's license for anyone convicted of a drug-related criminal offense;
- local educational agencies would be permitted to use any Federal funds they received to let a parent transfer a student who was the victim of a violent crime, including a drug-related crime, at a public school to any in-State school of the parent's choosing, whether public, private, or religious;
- teachers and students who were victims of crime at public schools would be eligible for compensation under the Victims of Crime Act, and a witness protection demonstration program for teachers and students would be enacted;
- grants would be given for innovative programs to improve safety for teachers and students;
- grants would be given for parental-consent drug testing demonstration projects;
- a student's eligibility for Federal student grants and loans would be suspended if that student were convicted of a drug-related felony offense; eligibility would be permanently lost for a third offense involving use or a second offense involving sales;
- demonstration grants would be given to help small businesses start drug-free workplace programs;
- grants would be given for community drug-prevention programs that mobilized parents to prevent illegal drug use;
- no Federal funds would be "used to carry out or support, directly or indirectly, any program of distributing sterile hypodermic needles or syringes to individuals for the hypodermic injection of any illegal drug";
- for each of FYs 1999-2003 for anti-drug law enforcement activities, an additional \$300 million would be given to the Drug Enforcement Administration (DEA) and an additional \$200 million would be given to the Federal Bureau of Investigation (FBI);
- incentive grants would be given to encourage States to start registration programs for convicted drug dealers;
- the President would be required to develop 2-year and 4-year National Drug Control Strategies to reduce drug abuse; and
- the President would be required to make annual reports on the level of drug abuse by children ages 12-17.

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Funding for the amendment would be from the tobacco trust fund established by this Act. All funding would be discretionary; certain minimum allocations for other appropriated spending in the bill would be removed so that Congress each year could determine the amount of funding to give to each of the authorized spending programs.

NOTE: Two Gregg/Leahy amendments were pending at the time of the vote (see vote No. 145).

Those favoring the amendment contended:

When President Reagan took office, more than half of all twelfth-graders had used illegal drugs within the previous year, and more than 30 percent had used illegal drugs besides marijuana. Those percentages steadily declined through the Reagan and Bush presidencies. By 1991, they had declined to 29.4 percent and 16.2 percent, respectively. Teen smoking rates also declined during those same years. The Reagan and Bush presidencies were marked by tough interdiction and law enforcement efforts against illegal drug use, and the uncompromising moral stand of First Lady Reagan, with her “just say no” campaign for teens on the use of any drug, legal or illegal, by teens. Then President Clinton was elected. He virtually eliminated the Drug Czar office, cut interdiction funding in half, and slashed funding for the Coast Guard. (Republicans were able to reverse those trends when they took control of Congress, but when Democrats had full control for a few years they went on a pro-illegal drug rampage). When Clinton ran for President, he said he had smoked marijuana, but claimed that he did not inhale. After he was elected, he went on MTV and told its millions of teenage viewers that he wished he had inhaled. Most recently, the Clinton Administration has proposed Federal funding to give hypodermic needles to drug addicts. President Clinton’s message on drugs, which was heartily supported by liberal Democrats in Congress, was read loudly and clearly by America’s youth. In 1991, before President Clinton took office, the percentage of eighth-graders who smoked cigarettes in the past 30 days had declined to 14.3 percent, and the percentage who used illegal drugs had declined to 5.7 percent. After 5.5 years of Clinton “leadership,” those numbers have climbed to 19.4 percent and 12.9 percent. The comparable 1991 statistics for tenth-graders are 20.8 percent and 29.8 percent for cigarettes and 11.6 percent and 23.0 percent for drugs, and for twelfth-graders they are 28.3 percent and 36.5 percent for cigarettes and 16.4 percent and 26.2 percent for illegal drugs. In 1997, 42.2 percent of twelfth-graders used illegal drugs within the previous year. Some of the most frightening statistics involve the most damaging drugs. For instance, in 1997, 11.8 percent of eighth-graders, junior high school students, used inhalants, which can cause extensive, permanent brain damage and death. (The above statistics are from the University of Michigan’s Monitoring the Future Study). In nominal terms, President Reagan’s and Bush’s war on drugs reduced the number of children aged 12-17 who use illegal drugs from 3.3 million to 1 million. Today, since the abandonment of that war, the number has climbed again to more than 2 million.

Every year, thousands of children who use illegal drugs die horrible deaths, not 30, 40, or 50 years later, but while they are still children. Tens of thousands more children cripple their futures by crippling their minds and their health. These children become hopeless addicts, dropping out of school, stealing, assaulting and killing people, prostituting themselves, doing anything they can to get the huge amount of money they need to buy the drugs that destroy them. Which is worse--to smoke a cigarette within the past 30 days and drive a car or to take LSD and drive? Innocent people are not killed by teenage drivers who are high from smoking cigarettes. Go to any high school in America, urban, rural, or suburban, and ask students what the greatest problems are that teens face today, and we guarantee that one of the first and loudest responses will be drug abuse, because students everywhere have classmates who are drug addicts. Cigarette smoking is, rightly, a much lower concern.

Most kids who use illegal drugs also smoke cigarettes. The common assumption in years past was that cigarette smoking was the “gateway” drug to the use of illegal drugs. Since President Clinton was elected, though, the rate of teen illegal drug use has climbed much faster than the rate of teen smoking, and evidence exists that at least some teen cigarette use is the result of illegal drug use. For instance, the New York Times reported on April 22 that black teenagers now smoke cigarettes because they believe that it enhances the effects of the marijuana they also smoke. Perhaps President Clinton will finally apologize for his inexcusable comment that he had wished he had inhaled, now that it has been revealed that marijuana is a gateway drug to tobacco.

Last year approximately 21 percent of twelfth-graders used hard illegal drugs, and another 21 percent used marijuana. Some Senators may not be concerned about marijuana use. They may not be troubled by President Clinton’s endorsement of inhaling this illegal substance. They should be aware that long-term marijuana smokers experience many of the same respiratory problems as tobacco smokers. Perhaps that is because the amount of tar inhaled by marijuana smokers and the level of carbon monoxide absorbed are three to five times greater than for tobacco smokers. Like tobacco, it may turn out that marijuana is a slow killer, and with its higher tar and carbon monoxide effects, it may manage to kill a lot higher percentage of its users.

Illegal drug use very likely has more severe long-term health effects than tobacco use, and it unquestionably causes astronomically greater harm in the short term. This bill, though, totally ignores the problem. The President and his liberal supporters in Congress have nothing to say about drugs, except how much they like the idea of giving clean needles to drug addicts. We have offered the Coverdell/Craig amendment to correct this bill’s total neglect of the need to reduce illegal drug use by teenagers, and instead of complementing the proposal for its obvious merits, they have just complained that it would interfere with their plans to spend the money on other government programs.

We obviously have different priorities than our colleagues. We believe that stopping the drug epidemic, which is reaching 1970's proportions, is a much more compelling concern than funding the projects on which our colleagues have proposed spending money. For instance, our colleagues want to increase funding for the Child Care Development block grant, and in the committee report they have suggested an increase of \$4 billion per year. This would help the minority of families who pay for child care. Of course, of that minority, many families are forced to pay for child care because both parents must work in order to pay the huge government tax burden. Seventy percent of parents do not put their children into institutional daycare, and more than half of those who do would prefer to raise their children at home but are forced by economic circumstances to work. Our colleagues are all compassion--instead of relieving the tax burden, or passing the Family Friendly Workplace Act so that parents can arrange their schedules so they can take care of their own kids, they instead want to increase institutional daycare funding. We do not think government should be involved in rearing children--it does not "take a village" to raise a child, nor does it "take a bureaucracy" as our colleagues seem to believe--it takes loving parents.

This point is very relevant to this debate. Our colleagues, in proposing this bill, insisted they were not trying to raise money to spend--they wanted to increase the cost of cigarettes because they were convinced that higher prices would lower teen consumption. We have found little research evidence to prove that teen smoking would be affected by a price increase; the most charitable spin would be to say that it is inconclusive, because the most extensive, longitudinal studies have found that it would not be affected. However, that point aside, as soon as we proposed this amendment our colleagues suddenly changed their tune--now the spending in this bill is very important. Supposedly, funding daycare is going to stop kids from smoking and/or using drugs. We doubt it. Teens smoke cigarettes, and use drugs, primarily due to peer pressure. The most effective way to counteract peer pressure is to have an active, loving parent giving guidance. In the National Longitudinal Study of Adolescent Health, researchers conducted a survey of 90,000 students grades 7 through 12, and concluded that teenagers who had strong emotional attachments to their parents, and who had parents present at key times--after school, dinner, bedtime, and before school--were much less likely to use drugs or use tobacco. Most parents take care of their children; most parents who have their children in institutional settings wish that they did not; researchers have found that having parents take care of their children reduces teen drug and tobacco use; why would our colleagues then conclude that we should discourage tobacco use by funding daycare instead of funding efforts to get parents more involved in discouraging drug and tobacco use?

Some of us who support this amendment support this bill; others of us do not. We agree, however, that illegal drug use by teenagers is an enormous and immediate problem that should be addressed in this bill. The Coverdell/Craig amendment would once again have the United States declare war on drugs. We urge our colleagues to support this amendment.

Those opposing the amendment contended:

This bill is about stopping teens from smoking tobacco. It will impose costs on smokers to discourage them from smoking, but it will also impose those costs to raise money to fund anti-tobacco programs. This bill contains funding for health research, for anti-tobacco advertising, for smoking cessation programs, and for daycare for children. The comprehensive approach taken by this bill is needed. In the first 5 years, \$65 billion will be raised. Under this bill, 40 percent of that money will go to the States, and tobacco farmers will get their transition assistance. That money will be provided as mandatory spending. Of the remainder, \$3 billion will be used to compensate veterans for smoking-related illnesses, another large amount will be taken by the Gramm marriage penalty relief if it is passed, and, if the Coverdell amendment is passed, another \$15 billion will be used up. Basically, if we agree to these amendments, there will not be any money left for anti-tobacco programs. We cannot support that result. Every year there are 418,000 smoking-related deaths in America, and almost all smokers start when they are in their teens. We therefore need to ensure that this bill has adequate funding for anti-smoking programs. The Coverdell/Craig amendment would use up a large portion of the available funding. We therefore urge its rejection.